

Decision

Dispute Codes:

OPL, CNL, MNDC, RR, MND, MNSD, FF

Introduction

This Dispute Resolution hearing was convened to deal with an Application by the tenant, seeking to cancel a Two Month Notice to End Tenancy for Landlord's Use and an order for monetary compensation for excess rent charged, damages to the tenant's car, and the cost of repairs. The hearing was also convened to deal with a cross application by the landlord seeking an Order of Possession based on a Two-Month Notice to End Tenancy for Landlord's Use and monetary compensation.

Both parties appeared at the hearing and gave evidence.

No copy of the Two-month Notice had been submitted into evidence and at the outset of the hearing the landlord conceded that there was no merit to their application. Accordingly, the landlord's application was dismissed and therefore, the Two Month Notice to End Tenancy for Landlord's Use was cancelled. The hearing proceeded with respect to the tenant's application.

Issue(s) to be Decided

The issues to be determined based on the testimony and the evidence are:

1. Is the tenant entitled to compensation in the form of a rent abatement or monetary order?

The tenant bears the burden of proof in regard to the tenant's claims and issues.

Background and Evidence

The tenancy began in June 2011 with rent of \$700.00 and a security deposit of \$350.00 was paid. According to the tenant:

- the landlord denied the tenant a parking spot on site that was supposed to be included in the tenancy agreement and as a result of parking on the street, the tenant incurred damages to her car costing \$300.00 for the deductible portion of her insurance.

- The landlord neglected to clear the walkway of snow and ice and the tenant suffered a fall.
- The landlord wrongfully charged the tenant \$100.00 additional rent for July 2011 and \$100.00 for August 2011.
- The landlord neglected to repair damaged walls and other deficiencies in the rental unit and agreed to compensate the tenant's boyfriend to do the work. However, the landlord never paid the \$1,000 cost for the repair work.

The tenant withdrew her claim with respect to the injury she suffered from falling on the icy walkway and stated that this matter will be pursued in another forum.

The landlord acknowledged that the extra \$200.00 in rent should not have been charged but disputed the claim that the tenant was denied on-site parking. The landlord also stated that she was unaware of damage to the suite and denied that there was any consensual payment agreement with the tenant in relation to repairs.

The landlord pointed out that the tenant has failed to pay \$700.00 rent owed for April 2012 and \$700.00 owed for May 2012. The landlord testified that a Ten Day Notice to End Tenancy for Unpaid Rent has been issued to the tenant to terminate the tenancy effective May 13, 2012.

The tenant stated that she did not pay any rent for April because, under the Act, a tenant is entitled to the equivalent of one month rent when a Two Month Notice to End Tenancy for Landlord's Use has been issued. The tenant explained that she did not pay rent owed for May because she was awaiting the outcome of today's hearing.

Analysis

After a mediated discussion in regard to the ending of the tenancy, the parties came to a mutually agreeable resolution the terms of which are as follows:

- The tenant agrees to vacate the unit on June 30, 2012 and the landlord will be issued an enforceable Order of Possession effective that date.
- The landlord agrees to waive the \$700.00 rent normally owed for each month including April, May and June 2012 for total compensation to the tenant in satisfaction for the excess rent charged, parking restriction, repairs done by the tenant in the amount of \$2100.00.
- The security deposit will be dealt with by the landlord and tenant at the end of the tenancy in accordance with section 38 of the Act.

The above terms were agreed to by both parties and are enforceable.

Conclusion

Based on the agreement reached by the parties, I hereby order that the tenant will be credited \$2,100.00 comprised of \$700.00 rent for April 2012, \$700.00 rent for May 2012 and \$700.00 rent for June 2012. This monetary compensation satisfies the tenant's claims for excessive rent charged in July and August 2011, the loss of parking and the cost of past repairs arranged by the tenant.

Based on the agreement reached by the parties during these proceedings, I grant the landlord an Order of Possession effective at 1:00 p.m. on Saturday June 30, 2012. This order must be served on the tenant and may be filed in the Supreme Court and enforced as an order of that Court.

I order that the tenant's security \$350.00 deposit being held in trust by the landlord will be administered at the end of the tenancy in compliance with section 38 of the Act.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: May 17, 2012.

Residential Tenancy Branch